

SENATE, No. 642

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Senator DIANE B. ALLEN

District 7 (Burlington)

Co-Sponsored by:

Senators Oroho and Cunningham

SYNOPSIS

Enacts the “Jessica Lunsford Act”: imposes mandatory term of 25 years to life for aggravated sexual assault against a child under the age of 13 and increases penalties for harboring certain sex offenders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/9/2012)

1 AN ACT concerning certain sexual assaults and designated the
2 “Jessica Lunsford Act,” amending N.J.S.2C:14-2 and
3 N.J.S.2C:29-3.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. N.J.S.2C:14-2 is amended to read as follows:

9 2C:14-2. Sexual assault. a. An actor is guilty of aggravated
10 sexual assault if he commits an act of sexual penetration with
11 another person under any one of the following circumstances:

12 (1) The victim is less than 13 years old;

13 (2) The victim is at least 13 but less than 16 years old; and

14 (a) The actor is related to the victim by blood or affinity to the
15 third degree, or

16 (b) The actor has supervisory or disciplinary power over the
17 victim by virtue of the actor's legal, professional, or occupational
18 status, or

19 (c) The actor is a resource family parent, a guardian, or stands
20 in loco parentis within the household;

21 (3) The act is committed during the commission, or attempted
22 commission, whether alone or with one or more other persons, of
23 robbery, kidnapping, homicide, aggravated assault on another,
24 burglary, arson or criminal escape;

25 (4) The actor is armed with a weapon or any object fashioned in
26 such a manner as to lead the victim to reasonably believe it to be a
27 weapon and threatens by word or gesture to use the weapon or
28 object;

29 (5) The actor is aided or abetted by one or more other persons
30 and the actor uses physical force or coercion;

31 (6) The actor uses physical force or coercion and severe
32 personal injury is sustained by the victim;

33 (7) The victim is one whom the actor knew or should have
34 known was physically helpless, mentally defective or mentally
35 incapacitated.

36 Aggravated sexual assault is a crime of the first degree.

37 Notwithstanding the provisions of any other law, a person
38 convicted under paragraph (1) of this subsection shall be sentenced
39 to a specific term of years which shall be fixed by the court and
40 shall be between 25 years and life imprisonment of which the
41 person must serve 25 years before being eligible for parole.

42 b. An actor is guilty of sexual assault if he commits an act of
43 sexual contact with a victim who is less than 13 years old and the
44 actor is at least four years older than the victim.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. An actor is guilty of sexual assault if he commits an act of
2 sexual penetration with another person under any one of the
3 following circumstances:

4 (1) The actor uses physical force or coercion, but the victim
5 does not sustain severe personal injury;

6 (2) The victim is on probation or parole, or is detained in a
7 hospital, prison or other institution and the actor has supervisory or
8 disciplinary power over the victim by virtue of the actor's legal,
9 professional or occupational status;

10 (3) The victim is at least 16 but less than 18 years old and:

11 (a) The actor is related to the victim by blood or affinity to the
12 third degree; or

13 (b) The actor has supervisory or disciplinary power of any
14 nature or in any capacity over the victim; or

15 (c) The actor is a resource family parent, a guardian, or stands
16 in loco parentis within the household;

17 (4) The victim is at least 13 but less than 16 years old and the
18 actor is at least four years older than the victim.

19 Sexual assault is a crime of the second degree.

20 (cf: P.L.2004, c.130, s.13)

21

22 2. N.J.S.2C:29-3 is amended to read as follows:

23 2C:29-3. Hindering Apprehension or Prosecution. a. A person
24 commits an offense if, with purpose to hinder the detention,
25 apprehension, investigation, prosecution, conviction or punishment
26 of another for an offense or violation of Title 39 of the Revised
27 Statutes or a violation of chapter 33A of Title 17 of the Revised
28 Statutes he:

29 (1) Harbors or conceals the other;

30 (2) Provides or aids in providing a weapon, money,
31 transportation, disguise or other means of avoiding discovery or
32 apprehension or effecting escape;

33 (3) Suppresses, by way of concealment or destruction, any
34 evidence of the crime, or tampers with a witness, informant,
35 document or other source of information, regardless of its
36 admissibility in evidence, which might aid in the discovery or
37 apprehension of such person or in the lodging of a charge against
38 him;

39 (4) Warns the other of impending discovery or apprehension,
40 except that this paragraph does not apply to a warning given in
41 connection with an effort to bring another into compliance with
42 law;

43 (5) Prevents or obstructs, by means of force, intimidation or
44 deception, anyone from performing an act which might aid in the
45 discovery or apprehension of such person or in the lodging of a
46 charge against him;

1 (6) Aids such person to protect or expeditiously profit from an
2 advantage derived from such crime; or

3 (7) Gives false information to a law enforcement officer or a
4 civil State investigator assigned to the Office of the Insurance Fraud
5 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
6 16).

7 (a) An offense under paragraph (5) of subsection a. of this
8 section is a crime of the second degree, unless the actor is a spouse,
9 domestic partner, partner in a civil union, parent or child to the
10 person aided [who] and is the victim of the offense, in which case
11 the offense is a crime of the fourth degree. Otherwise, the offense
12 is a crime of the third degree if the conduct which the actor knows
13 has been charged or is liable to be charged against the person aided
14 would constitute a crime of the second degree or greater, unless the
15 actor is a spouse, domestic partner, partner in a civil union, parent
16 or child of the person aided, in which case the offense is a crime of
17 the fourth degree. The offense is a crime of the fourth degree if
18 such conduct would constitute a crime of the third degree.
19 Otherwise it is a disorderly persons offense.

20 (b) Notwithstanding the provisions of subparagraph (a) of this
21 paragraph, any actor who harbors or conceals a person who is
22 subject to the registration requirements of section 2 of P.L.1994,
23 c.133 (C.2C:7-2) and who the actor knows is not complying or has
24 not complied with the provisions of section 2 of P.L.1994, c.133
25 shall be sentenced to a minimum term of imprisonment without
26 eligibility for parole. If the offense is a crime of the third degree
27 then the period of parole ineligibility shall be three years; if the
28 offense is a crime of the fourth degree then the period of parole
29 ineligibility shall be one year.

30 b. A person commits an offense if, with purpose to hinder his
31 own detention, apprehension, investigation, prosecution, conviction
32 or punishment for an offense or violation of Title 39 of the Revised
33 Statutes or a violation of chapter 33A of Title 17 of the Revised
34 Statutes, he:

35 (1) Suppresses, by way of concealment or destruction, any
36 evidence of the crime or tampers with a document or other source of
37 information, regardless of its admissibility in evidence, which might
38 aid in his discovery or apprehension or in the lodging of a charge
39 against him; or

40 (2) Prevents or obstructs by means of force or intimidation
41 anyone from performing an act which might aid in his discovery or
42 apprehension or in the lodging of a charge against him; or

43 (3) Prevents or obstructs by means of force, intimidation or
44 deception any witness or informant from providing testimony or
45 information, regardless of its admissibility, which might aid in his
46 discovery or apprehension or in the lodging of a charge against him;
47 or

1 (4) Gives false information to a law enforcement officer or a
2 civil State investigator assigned to the Office of the Insurance Fraud
3 Prosecutor established by section 32 of P.L.1998, c.21 (C.17:33A-
4 16).

5 An offense under paragraph (3) of subsection b. of this section is
6 a crime of the second degree. Otherwise, the offense is a crime of
7 the third degree if the conduct which the actor knows has been
8 charged or is liable to be charged against him would constitute a
9 crime of the second degree or greater. The offense is a crime of the
10 fourth degree if such conduct would constitute a crime of the third
11 degree. Otherwise it is a disorderly persons offense.
12 (cf: P.L.2008, c.81, s.2)

13
14 3. This act shall take effect immediately.
15
16

17 STATEMENT 18

19 This bill would impose mandatory terms of imprisonment on
20 persons convicted of aggravated sexual assault against a child under
21 the age of 13. It would also impose mandatory terms on certain
22 persons convicted of harboring or concealing another person who is
23 required to register under Megan's Law.

24 Under paragraph (1) of subsection a. of N.J.S.2C:14-2, a person
25 is guilty of aggravated sexual assault, a crime of the first degree, if
26 he commits an act of sexual penetration with a victim under the age
27 of 13. A crime of the first degree is ordinarily punishable by a term
28 of imprisonment of 10 to 20 years or a fine of up to \$200,000 or
29 both. Under the bill, the person would be sentenced to a specific
30 term of years fixed by the court. The term would be between 25
31 years and life imprisonment, of which the person must serve 25
32 years before being eligible for parole.

33 In addition, the bill imposes mandatory terms under certain
34 circumstances for persons who harbor or conceal a person who is
35 required to register under Megan's Law. Under the provisions of
36 N.J.S.2C:29-3, hindering the apprehension or prosecution of
37 another ranges from a disorderly persons offense to a crime of the
38 second degree, depending on the situation. The bill provides that if
39 the actor harbors or conceals a person who is required to register
40 under Megan's Law and knows that the person has not complied
41 with the registration requirements, the actor would be sentenced to
42 a mandatory minimum term of imprisonment without eligibility for
43 parole. If the offense is a crime of the third degree the parole
44 ineligibility period would be three years; if the offense is a crime of
45 the fourth degree the parole ineligibility period would be one year.

46 This bill is similar to Florida's "Jessica Lunsford Act," Chapter
47 No. 2005-28. Jessica, a nine-year-old Florida resident, was
48 kidnapped, raped, and murdered by a registered sex offender. The

1 Florida enactment imposed a mandatory term of imprisonment of 25
2 years for sex crimes against children and required satellite
3 monitoring to track the location of sex offenders after release.

4 In New Jersey, the GPS monitoring of sex offenders was
5 established as a pilot program by P.L.2005, c.189 and the program
6 was made permanent by P.L.2007, c.128 (C.30:4-123.89 et seq.).